



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 2, 2016

Kory A. Langhofer
Brownstein Hyatt Farber Schreck
One East Washington St., Floor 24
Phoenix, AZ 85004

RE: MUR 6724
Guy Short
C & M Strategies, Inc.

Dear Mr. Langhofer:

On February 28, 2013, the Federal Election Commission notified your clients of the complaint in MUR 6724 alleging violations of the Federal Election Campaign Act of 1971, as amended. On May 17, 2013, the Commission received your clients' response to the complaint.

On June 16, 2016, the Commission found, on the basis of the information in the complaint, that there is no reason to believe Guy Short violated 52 U.S.C. § 30116(f). The Commission also voted to take no action against C&M Strategies, Inc. Accordingly, the Commission closed its file in this matter as it pertains to Guy Short and C&M Strategies, Inc. The Factual and Legal Analysis explaining the Commission's finding is enclosed.

The Commission reminds you that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Peter Reynolds, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Peter Blumberg". The signature is written in a cursive, flowing style.

Peter Blumberg
Assistant General Counsel

Enclosure
Factual and Legal Analysis

17044423008

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENTS: C&M Strategies, Inc.

MUR: 6724

6
7 Guy Short

8
9
10 **I. INTRODUCTION**

11 This matter was generated by a complaint filed by Peter Waldron and a referral from the
12 Office of Congressional Ethics ("OCE Referral") alleging that presidential candidate Michele
13 Bachmann's principal campaign committee, Bachmann for President and Nancy H. Watkins in
14 her official capacity as treasurer (the "Committee"), her leadership PAC, Many Individual
15 Conservatives Helping Elect Leaders Everywhere PAC and Barry Arrington in his official
16 capacity as treasurer ("MichelePAC"), Guy Short, and C&M Strategies, Inc. ("C&M"), among
17 others, engaged in various transactions that violated the Federal Election Campaign Act of 1971,
18 as amended (the "Act").

19 As discussed below in greater detail, the Commission finds no reason to believe that Guy
20 Short accepted an excessive in-kind contribution on behalf of the Committee in violation of 52
21 U.S.C. § 30116 (formerly 2 U.S.C. § 441a). The Commission takes no action against C&M
22 Strategies.

23 **II. FACTUAL AND LEGAL ANALYSIS**

24 **A. Facts**

25 Bachmann for President was Representative Michele Bachmann's principal campaign
26 committee during her 2012 presidential campaign.¹ MichelePAC is Bachmann's leadership
27 PAC. Short is the sole principal of C&M, a political consulting firm that was retained by each of

¹ Bachmann for President Statement of Organization at 2 (June 8, 2011).

1 the Bachmann Committees during Bachmann's 2012 presidential campaign.² Through these
2 arrangements, Short acted as the Committee's National Political Director and MichelePAC's
3 Executive Director.³ Kent Sorenson was an Iowa state senator and the Committee's Iowa State
4 Chairman from shortly after its establishment in June 2011 through November 2011.⁴ He is the
5 sole principal of Grassroots Strategy, Inc. ("Grassroots"), a political consulting firm that was
6 hired to support each of the Bachmann Committees during the 2012 election cycle.⁵

7 In "early 2011" Andy Parrish, Bachmann's former Chief of Staff, personally recruited
8 Sorenson to support Bachmann's presidential campaign.⁶ On March 11, 2011, Sorenson became
9 the first elected official in Iowa to endorse Bachmann's candidacy.⁷ Sorenson then began
10 "providing strategic advice about the Iowa political landscape, recommending staff members to
11 the campaign, recruiting other Iowa legislators to the Bachmann cause, and making
12 communications on the campaign's behalf."⁸ According to Parrish, it became clear that
13 "Sorenson would require payment in exchange for his work on the Bachmann campaign."⁹
14 Sorenson and Parrish allegedly believed that Iowa Senate Code of Ethics prohibited Sorenson

² Short Resp. at 1.

³ Compl. at 1.

⁴ OCE Referral ¶ 1.

⁵ *Id.* ¶ 35; MichelePAC Resp. at 2; Short Resp. at 1-2. According to its public filings with the Iowa Secretary of State, Sorenson incorporated Grassroots as a domestic profit corporation in 2010, listing himself as its incorporator/director. Grassroots reports no other directors or officers. *See* IOWA SEC'Y OF STATE, [http://sos.iowa.gov/search/business/\(S\(xnyuv445\)wletg455viubm45\)\)/officers.aspx](http://sos.iowa.gov/search/business/(S(xnyuv445)wletg455viubm45))/officers.aspx) (last visited Apr. 2, 2014).

⁶ OCE Referral ¶ 5.

⁷ Report to the Senate Ethics Committee on the Investigation of State Senator Kent Sorenson, 39 (Oct. 2, 2013), available at http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part1.pdf (Volume I) and http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part2.pdf (Volume II) ("Independent Investigator's Report").

⁸ *Id.* at 39-40.

⁹ *Id.* at 40; *see* OCE Referral ¶ 6.

1 from accepting payment from the Committee or MichelePAC.¹⁰ Over the course of March and
2 April 2011, Sorenson, Parrish, and Short negotiated the terms of the arrangement, ultimately
3 agreeing that the Committee would pay an additional \$7,500 per month to C&M under the
4 existing \$15,000 per month contract (for a total of \$22,500 per month), and C&M would then
5 pass the additional amount to Sorenson through Grassroots.¹¹ The OCE Referral notes that
6 “OCE has received no information” that Sorenson took direction from Short or performed any
7 work for C&M, and that “it does not appear that C&M exercised any independent control over
8 the funds it received” from the Committee that were “earmarked” for Sorenson.¹² Accordingly,
9 the OCE Referral concludes that the Committee paid Sorenson \$7,500 per month but “routed”
10 the payments through C&M to avoid disclosing that Sorensen was the intended recipient.¹³

11 Although the Committee was not yet established, Short and Sorenson were already
12 working on behalf of Bachmann’s candidacy. During May, MichelePAC paid \$24,000 to
13 C&M.¹⁴ Grassroots received its first payment from C&M on May 16 in the amount of \$8,275.¹⁵
14 After the Committee officially formed in June, it entered into the previously arranged contract
15 with C&M, which ran from June 13 to December 31.¹⁶ Pursuant to that contract, the Committee
16 made the following payments to C&M: \$33,750 on July 29 (presumably covering half of June
17 and all of July at a monthly rate of \$22,500); \$25,830 on September 12 (covering August

¹⁰ OCE Referral ¶ 7. Most of the documents in the OCE Referral assume that Sorenson, as a sitting state senator, was prohibited by state law from being paid by the Committee. In any event, the Iowa Supreme Court appointed an independent investigator who found probable cause to believe that Sorenson violated the Iowa Senate Code of Ethics by accepting compensation from MichelePAC (and possibly violated the Code by accepting compensation from the Committee) for his work on the Bachmann campaign. See Independent Investigator’s Report at 4-5. Sorenson resigned after the release of the independent investigator’s report.

¹¹ OCE Referral ¶¶ 6-19. C&M would pass along a total of \$59,915 — \$7,489 per month for eight months — to Sorenson/Grassroots over the course of 2011. Independent Investigator’s Report at 48-49.

¹² OCE Referral ¶¶ 26, 28.

¹³ *Id.*

1 services); \$22,500 on October 11 (covering September services); and \$22,500 on November 9
2 (covering October services).¹⁷ The record shows no payments made from the Committee to
3 C&M for services performed during November and December 2011, despite the fact that various
4 witness accounts provided with the OCE Referral state that Short worked on a full-time basis for
5 the Committee in late 2011 and early 2012.¹⁸ This time period is approximately when the
6 Committee began running short of funds.¹⁹

7 As the Committee ceased its payments to C&M, MichelePAC's payments to C&M saw a
8 corresponding increase. MichelePAC — which had been paying \$5,000 per month to C&M
9 since the Committee's establishment in mid-June — then paid \$20,000 on December 6, 2011,
10 and \$20,000 on January 3, 2012, for "fundraising consulting." Combined with a \$5,000 payment
11 from MichelePAC to C&M on November 30, MichelePAC appears to have paid a total of
12 \$45,000 to C&M for services rendered in November and December, the same amount that the
13 Committee owed to C&M and Grassroots (\$22,500 per month) for their work over that period.²⁰

¹⁴ See Independent Investigator's Report at 47-49.

¹⁵ *Id.* at 48.

¹⁶ OCE Referral ¶ 15, Ex. 9.

¹⁷ See 2011 October Quarterly Report; 2011 Year End Report.

¹⁸ See, e.g., Parrish MOI ¶¶ 37-40; OCE Referral, Mem. of Interview, Robert Heckman ¶¶ 22-23 (Mar. 26, 2013) ("Heckman MOI"); Woolson MOI ¶¶ 10, 14, 16. We are not aware of any information about any discussion or agreement between C&M and the Committee to amend the contract to relieve the Committee from its obligation to pay C&M its monthly consulting fee through December 31, 2011. The Committee also did not disclose any debts or obligations to C&M on its 2011 Year End Report covering the last quarter of the year (and just a \$1,532.70 debt to Short during that time, which it listed as "mileage" when it reimbursed him on January 4, 2013).

¹⁹ See Bachmann MOI ¶ 40; Parrish MOI ¶ 41; Woolson MOI ¶¶ 17-18.

²⁰ Sorenson shifted his support to Ron Paul in December 2011. Parrish Aff. ¶ 5.

1 Short and C&M assert that there was no effort to conceal payments to Sorenson, and that
2 the “arrangement was indistinguishable from thousands of other contractor/subcontractor or
3 vendor/subvendor arrangements involving services provided to political committees.”²¹

4 In response to the allegation that MichelePAC assumed the Committee’s payment
5 obligations, the respondents point to C&M’s invoices to MichelePAC during this period
6 describing the services (fundraising and management consulting, a fundraising project, and a
7 research project), and contend that these invoices indicate that MichelePAC’s payments were
8 legitimate compensation for *bona fide* services. No details were provided about the existence of
9 any such project in fact, including who requested work, when it was performed or completed,
10 and how the cost was determined, despite the fact that Short would have had the authority to
11 approve any such fundraising project for MichelePAC in December 2011.²²

12 **B. Analysis**

13 1. There is No Reason to Believe Short Violated Section 441a

14 Short served as the National Political Director of the Committee, the entity that accepted
15 the alleged excessive in-kind contribution. Under the Act, “[n]o officer or employee of a
16 political committee shall knowingly accept a contribution made for the benefit or use of a
17 candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any

²¹ Short Resp. at 2.

²² Bachmann MOI ¶ 46; Parrish MOI ¶¶ 28, 33-34. Short established MichelePAC at Bachmann’s direction and was “in charge” of MichelePAC during all relevant times. Bachmann MOI ¶¶ 4-5; Parrish MOI ¶¶ 26-27. According to Bachmann, Short was responsible for approving non-contribution disbursements made by MichelePAC as well as the hiring and firing of employees or consultants. Bachmann MOI ¶¶ 7-8. Short was also responsible for setting up his own consulting agreement, negotiating his own compensation arrangements, supervising his own work, and reviewing and approving the payment of invoices, including invoices from or payments to his own firm, C&M. *Id.* ¶¶ 9-13, 36; Parrish MOI ¶¶ 29, 33-34.

1 limitation imposed on contributions and expenditures under this section.”²³ To our knowledge,
2 the Commission has never imposed section 30116(f) liability on an “officer or employee” of a
3 committee unless the “officer or employee” was the candidate who was benefiting from the
4 contributions.²⁴

5 Accordingly, the Commission finds no reason to believe Short²⁵ violated 52 U.S.C.
6 § 30116(f) (formerly 2 U.S.C. § 441a(f)) by knowingly accepting an excessive in-kind
7 contribution made for the benefit or use of a candidate.

²³ 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)). *See* Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 1, n.8 (section 30116(f) “specifically impose[s] obligations on committees and committee officers and candidates”).

²⁴ *See, e.g.*, Certification, MUR 5908 (Peace Through Strength PAC) (Jan. 30, 2009) (finding RTB that presidential candidate Duncan Hunter violated section 30116(f) by accepting excessive contributions during “testing the waters” period and prior to filing Statement of Candidacy); Factual and Legal Analysis at 8, MUR 5783 (Green Party of Luzerne County, PA and Carl Romanelli for U.S. Senate) (June 18, 2007) (candidate Romanelli violated section 30116(f) “because the candidate appears to have solicited and accepted contributions to [a county party committee] that were used for ballot qualification efforts on his behalf”); Certification, MUR 5685 (Joe Turnham for Congress) (Nov. 4, 2005) (finding RTB that candidate violated section 30116(f) by receiving excessive contributions on behalf of his committee); *see also* 52 U.S.C. § 30102(e)(2) (formerly 2 U.S.C. § 432(e)(2)) (candidate considered agent of the authorized committee of such candidate for purposes of receiving contributions and or loans and making disbursements in connection with campaign).

²⁵ Although the Complaint identifies Short’s firm, C&M, as a respondent, it does not describe a violation of the Act by C&M.

170044423104